

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

WEBMAP TECHNOLOGIES, LLC

vs.

GOOGLE, INC., ET AL.

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CASE NO. 2:09-CV-343-DF-CE

ORDER

The above-titled and numbered civil action was referred to United States Magistrate Judge Chad Everingham pursuant to 28 U.S.C. § 636. The report of the Magistrate Judge (Dkt. No. 260), which contains his recommendation that the court grant in part and deny in party Yahoo!, Inc.’s (“Yahoo”) motion to dismiss for failure to state a claim as to willful infringement (Dkt. Nos. 114, 196), has been presented for consideration.

Neither party objected to the report of the Magistrate Judge.

The court is of the opinion that the conclusions of the Magistrate Judge are correct. Therefore, the court adopts, in its entirety, the report of the United States Magistrate Judge as the conclusions of this court. Accordingly, the defendant’s motion to dismiss is GRANTED in part and DENIED in part. The claim for post-filing willful infringement should be DISMISSED without prejudice until Plaintiff seeks and the court rules upon a preliminary injunction in accord with *Seagate*¹ or Plaintiff pleads other extraordinary circumstances sufficient to show an objectively high likelihood of infringing a valid patent arising after filing as in *St. Clair*.²

¹ *In re Seagate Tech., LLC*, 497 F.3d 1360, 1374 (Fed. Cir. 2007).

² *St. Clair Intellectual Prop. Consultants, Inc. v. Palm, Inc.*, 2009 WL 1649751, at *1 (D. Del. Jun. 10, 2009)

SIGNED this 28th day of September, 2010.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE